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ARIZONA ATTORNEY GENERAL

DEPARTMENT OF LAW OPINION NO. 72-21 (R-55)

REQUESTED BY: THE HONORABLE BURTON S. BARR
Arizona State Representative

QUESTION: Do the provisions of A.R.S. §§ 11-861, et seq., enabling boards of supervisors to adopt and enforce building codes and other related codes, inherently authorize the boards to establish and charge reasonable fees for permits issued and inspections made pursuant to any such codes adopted?

ANSWER: See body of opinion.

A.R.S. § 11-861.A reads as follows:

A. In any county which has adopted zoning pursuant to this chapter, the board of supervisors may adopt and enforce, for the unincorporated areas of the county so zoned, a building code and other related codes to regulate the quality, type of material and workmanship of all aspects of construction of buildings or structures, except that the board may authorize that areas zoned rural or unclassified may be exempt from the provisions of the code adopted. Such codes may be adopted by reference after notice and hearings before the county planning and zoning commission and board of supervisors as provided in this chapter for amendments to the zoning ordinance of the county.

A.R.S. § 11-808.B permits the charging of reasonable fees for the issuance of a building permit.

Where statutes relate to the same subject matter, they should be read together and harmonized where possible. Arizona State Highway Commission v. Nelson, 105 Ariz. 76, 459 P.2d 509 (1969); Trickel v. Rainbo Baking Company of Phoenix, 100 Ariz. 222, 412 P.2d 852 (1966). The above referenced statutes are in pari materia and should be read together. Desert Waters, Inc. v. Superior Court in and for Pima County, 91 Ariz. 163, 370 P.2d 652 (1962).

Opinion No. 72-21
(R-55)
July 18, 1972
Page Two

Reasonable charges may be required for the issuance of building permits, because the Legislature has conferred said authority upon the counties in the adoption of county zoning regulations. By implication, since the Legislature has expressed that reasonable charges may only be required for building permits by invoking the doctrine of expressio unius est exclusio alterius, it may be stated that there would be no implied authority for any other charges to be assessed pursuant to A.R.S. §§ 11-861, et seq. State v. Allred, 102 Ariz. 102, 425 P.2d 572 (1967).

Therefore, it can be stated that A.R.S. §§ 11-861, et seq., do not inherently include authority to boards of supervisors to establish and charge reasonable fees in any other area. The Legislature, of course, could grant to boards of supervisors such authority as it has in the case of building permits.

Respectfully submitted,


GARY K. NELSON
The Attorney General *jm*

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